IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

Crl.MC.No. 560 of 2007()

CMP.1078/2007 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOTTARAKKARA

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PETITIONER:

SANTHOSH, S/O.SASIDHARAN, AGED 27 YEARS,
PUTHUVALVOILA PUTHEN VEEDU, PALACHIRA P.O.,
CHEMMARUTHI VILLAGE, CHIRAYINKEEZHU TALUK.

BY ADV. SRI.C.V.BIMAL ROY

RESPONDENTS:

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1. THE SATION HOUSE OFFICER,
KADAKKAL POLICE STATION, KOLLAM DISTRICT,
REP.BY THE PLUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

2. THE DISTRICT COLLECTOR,
KOLLAM DISTRICT.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 560 OF 2007

Dated this the 6th day of March, 2007

ORDER

The petitioner claims to be the owner of a lorry seized by the police on the allegation that it was involved in illicit transportation of river sand in violation of the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 (for short `the Act'). The vehicle was not produced before the learned Magistrate. When an application was filed for release of the vehicle, notice was given and the seizure was reported to the learned Magistrate. It was submitted that the vehicle had been produced before the District Collector under the relevant provisions of the Act and Rules. The learned Magistrate rejected the application on the short ground that the vehicle is reported to be produced before the District Collector.

2. The learned Public Prosecutor, on instructions, submits that no orders have been passed by the District Collector in the matter so far. I am, in these circumstances,

satisfied that the vehicle can be released to the owner entitled to possession thereof subject to appropriate conditions.

3. In the result, this Crl.M.C. is allowed. The impugned order is set aside. It is directed that the vehicle shall be released to the petitioner on condition that:

(i) the petitioner produces all necessary documents to show that he is the owner of the lorry entitled to possession of the vehicle;

(ii) the owner of the vehicle executes a bond for such amount as may be fixed by the learned Magistrate considering the value of the vehicle with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

(iii) the petitioner in the bond undertakes to pay such amount as may be imposed on him by the District Collector in proceedings under Rule 27(3) of the Kerala Protection of River Banks and Regulation of Removal of Sand Rules, subject, of course, to his right to challenge the order in accordance with law.

(R. BASANT, JUDGE)

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